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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/446,395	12/22/99	OLOFSSON	U 000515-175

QM12/0619
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EXAMINER	
WEBB, I	
ART UNIT	**PAPER NUMBER**
3761	3

DATE MAILED: 06/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/446,395	OLOFSSON ET AL.	
	Examiner	Art Unit	
	Jamisue A. Webb	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-11 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15)☒ Notice of References Cited (PTO-892)
16)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .
18)☐ Interview Summary (PTO-413) Paper No(s). _____ .
19)☐ Notice of Informal Patent Application (PTO-152)
20)☐ Other:

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 1 and 8, the phrases "such as" and "or the like" render the claim indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2173.05(d).

5. Claim 1 recites the limitation "the surface" in line 5. There is insufficient antecedent basis for this limitation in the claim.

6. With respect to claim 1: the phrase "and in this way has a hydrophilic surface" is indefinite. It is unclear to the examiner what this phrase is trying to claim. In what way has a hydrophilic surface.

7. Claim 2 recites the limitation "the surface" in line 4. There is insufficient antecedent basis for this limitation in the claim.

8. Claims 2 and 3 recite the limitation "the fibres". There is insufficient antecedent basis for this limitation in the claim.

9. Claim 8 recites the limitation "the surface" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Langdon (5,368,910).

12. With respect to Claims 1 and 8: Langdon discloses the use an absorbent article with an absorbent body, backsheet and topsheet (column 2, lines 25-31), where the topsheet consists of a first material (Langdon's second layer) that can be either polyethylene of bicomponent material (column 2, lines 50-51). Langdon discloses the material being plasma-treated to make the surface more hydrophilic (column 8, lines 39-42).

13. With respect to Claim 2: Langdon discloses the first material being a non-woven material. (column 6, line 58 and column 8, lines 47-48).

14. With respect to Claim 6, 7 and 9: Langdon discloses the topsheet being made from a second fibrous nonwoven layer (column 5, line 33), and is polypropylene (column 6, line 18).

15. With respect to Claim 10: Langdon discloses the polypropylene layer being located on the top of the layer with the polyethylene fibers (column 2, lines 22-54).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

18. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Langdon (5,368,910).

19. Langdon discloses the bicomponent fiber layer being closer to the core, and the polypropylene layer being located in top of that, however fails to teach the other way around, where the polypropylene component layer is located closer to the core and the bicomponent layer being located on to of that. It would have been obvious matter of design choice to have the

polypropylene layer adjacent the core and the bicomponent layer on top of that, since the applicant has not disclosed that the placement of the two layers solves any stated problem or is for any particular purpose and it appears that the invention with the bicomponent layer closer to the core and the polypropylene layer on to of that would perform equally well. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the bicomponent layer closer to the core and the polypropylene layer on top, since it has been held that rearranging of parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

20. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langdon (5,368,910) in view of Goldman et al. (5,669,894).

21. Langdon, as disclosed above for claims 1 and 2, teach the use of the bicomponent fibers, but fail to teach the use of bicomponent fibers with the outer covering being polyethylene, and the inner covering being polypropylene or polyester. Goldman discloses the use of bicomponent fibers being used in fibrous webs such as topsheets, with a polypropylene core and a polyethylene sheath and a polyester core and a polyethylene sheath (column 26, lines 22-44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the bicomponent fibers of fibrous layer of Langdon, be replaced by the bicomponent fibers with the polyethylene sheath and polypropylene and polyester cores, as disclosed by Palumbo, in order to provide fibers that provide thermal bonding due to melting of the sheath polymer, while retaining the desirable strength characteristics of the core polymer (see Goldman column 26).

22. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Langdon (5,368,910) in view of Thomas et al. (4,351,784).

23. Langdon discloses the fibrous material (claimed first layer) can be webs, ribbons, and films, and discloses it can be apertured (column 6, lines 2), but fails to teach the use of a perforated plastic film. Thomas teaches the use of a corona treated perforated thermoplastic film (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the nonwoven web of the fibrous material, be in the form of a perforated film, as disclosed by Thomas, in order to provide increased liquid flow rate of liquid through the material. (See Thomas, abstract)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw
June 13, 2001

Aaron J. Lewis
Primary Examiner